

1  
2  
3  
4  
5  
6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA

No. C 06-01572 CRB  
CR-04-0147 CRB

12 Plaintiff,

**ORDER DISMISSING SECTION 2255  
PETITION**

13 v.


14 ROYRICK MILLER,

15 Defendant.  
16 \_\_\_\_\_/

17 Now pending before the Court is defendant Royrick Miller's pro se petition pursuant  
18 to 28 U.S.C. section 2255. Miller contends that the Federal Bureau of Prisons did not give  
19 him credit for all the time he spent in federal custody prior to his sentencing. A claim for  
20 credit against a federal sentence for time spent in custody prior to sentencing cannot be raised  
21 under 28 U.S.C. section 2255. United States v. Espinoza, 866 F.2d 1067, 1071 (9th Cir.  
22 1988). "Such a claim challenges the Attorney General's execution of sentence rather than the  
23 district court's imposition; a § 2255 petition can test only the propriety of the sentence  
24 imposed, not the manner of execution." Id. Accordingly, Miller's section 2255 petition is  
25 DISMISSED.

26 **IT IS SO ORDERED.**

27  
28 Dated: March 2, 2006

  
\_\_\_\_\_  
CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE

United States District Court

For the Northern District of California

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28